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SENATE BILL 143

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; CHANGING ELEMENTS OF ANNUAL
REPORTS FILED BY CERTAIN LICENSEES; REQUIRING CONFIDENTIALITY
OF CERTAIN INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 58-15-10.1 NMSA 1978 (being Laws 2011,
Chapter 105, Section 1) is amended to read:

"58-15-10.1. LICENSEE REPORTING REQUIREMENTS--
PENALTIES.--

A. Licensees shall file with the director [~~each~~
~~year a report containing~~] reports for the period January 1
through December 31 by loan product for each licensed location.
The reports shall contain at least the following information
for the preceding calendar year in an aggregated,
nonidentifying consumer manner:

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1 (1) a description of each loan product offered
2 by the licensee, including

3 [~~(a) all fees;~~
4 ~~(b)] the minimum, maximum and average
5 annual interest rate as disclosed pursuant to 12 C.F.R. 226,
6 known as "Regulation Z"~~

7 [~~(c) the frequency of periodic payments;~~
8 ~~(d) the term of the loan; and~~
9 ~~(e) any other standard conditions of the~~
10 ~~loan product];~~

11 (2) the total number of [~~transactions~~] loans
12 entered into for each loan product in the following amounts:

13 (a) five hundred dollars (\$500) or less;

14 (b) five hundred one dollars (\$501) to
15 one thousand dollars (\$1,000);

16 (c) one thousand one dollars (\$1,001) to
17 three thousand dollars (\$3,000);

18 (d) three thousand one dollars (\$3,001)
19 to five thousand dollars (\$5,000); and

20 (e) greater than five thousand dollars
21 (\$5,000);

22 (3) the total number of loans and the total
23 dollar amount of loan origination principal for each loan
24 product;

25 (4) the average loan origination principal

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1 [~~loan~~] amount for each loan product;

2 (5) the total number of loans for the loan
3 product for which the loan principal and accrued interest was
4 not paid in full as of December 31;

5 [~~(6) the total dollar amount of principal~~
6 ~~loaned;~~]

7 (6) the total principal balance of the loan
8 product as of December 31;

9 (7) the total dollar amount of loan principal
10 repaid;

11 (8) the total dollar amount of interest
12 received;

13 (9) the total dollar amount and description of
14 fees received for the loan product;

15 (10) the total number of loans that were
16 secured by collateral of some type and the total number of such
17 loans in which the security was foreclosed upon or repossessed
18 for the loan product;

19 (11) the total amount of loan principal and
20 the total amount of accrued interest written-off or charged-off
21 for the loan product;

22 [~~(12) the percent of consumers who were new~~
23 ~~consumers;~~

24 ~~(13)]~~ (12) the number of loans that were
25 renewed, refinanced or extended prior to being repaid in full

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1 for the loan product; and

2 [~~(14)~~] (13) procedures the licensee follows as
3 a standard practice to establish each consumer's ability to
4 repay a loan.

5 B. The report required pursuant to Subsection A of
6 this section shall be submitted to the director on or before
7 [~~the thirty-first day of~~] March [~~each~~] 31 of the succeeding
8 year.

9 C. The report required pursuant to Subsection A of
10 this section shall be accompanied by a sworn statement by the
11 licensee under penalty of perjury that the report is complete
12 and accurate.

13 D. A licensee that fails to timely submit a
14 complete and accurate report as required pursuant to Subsection
15 A of this section [~~shall~~] may:

16 (1) be fined an amount not to exceed one
17 thousand five hundred dollars (\$1,500) per day for each day
18 after [~~the thirty-first day of~~] March 31 a complete and
19 accurate report is not filed; and

20 (2) have a license required pursuant to the
21 New Mexico Small Loan Act of 1955 suspended pursuant to Section
22 58-15-8 NMSA 1978 if a complete and accurate report has not
23 been filed by [~~the thirty-first day of~~] March 31.

24 E. The information required to be submitted by
25 licensees pursuant to the provisions of this section shall not

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1 include information concerning payday loans or loans or loan
2 products with an annual interest rate of one hundred seventy-
3 five percent or less as disclosed pursuant to 12 C.F.R. 226,
4 known as "Regulation Z".

5 F. If a licensee did not make a qualifying loan
6 during the reporting period, the licensee shall certify that
7 fact to the director by March 31."

8 SECTION 2. Section 58-15-39 NMSA 1978 (being Laws 2007,
9 Chapter 86, Section 21, as amended) is amended to read:

10 "58-15-39. DUTIES OF DIVISION.--

11 A. The division shall:

12 (1) maintain a list of licensees, which list
13 shall be available to interested persons and the public; and

14 (2) establish a complaint process whereby an
15 aggrieved consumer or other person may file a complaint against
16 a licensee.

17 B. The division shall annually provide a report to
18 the legislature detailing statistics, including data adequate
19 to obtain an accurate understanding of the practices,
20 demographics and legal compliance of all licensees licensed in
21 the state. The division shall compile an annual report by
22 October 1 of each year containing, at a minimum, data regarding
23 all payday loan products entered into in the preceding calendar
24 year on an aggregate basis. Annual reports shall be made
25 available to interested parties and the general public and

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1 published on the division's web site. Consistent with state
2 law, the report shall include, at a minimum, nonidentifying
3 consumer data from the preceding year, including:

4 (1) the total number and dollar amount of
5 payday loan products entered into in the calendar year ending
6 December 31 of the previous year;

7 (2) the total number and dollar amount of
8 payday loan products outstanding as of December 31 of the
9 previous year;

10 (3) the effective annualized percentage rate
11 and the average number of days of a payday loan during the
12 calendar year ending December 31 of the previous year;

13 (4) the number of payday loan products entered
14 into in the amount of one hundred dollars (\$100) or less, the
15 number of payday loan products entered into in the amount of
16 one hundred one dollars (\$101) to five hundred dollars (\$500),
17 the number of payday loan products entered into in the amount
18 of five hundred one dollars (\$501) to one thousand dollars
19 (\$1,000), the number of payday loan products entered into in
20 the amount of one thousand one dollars (\$1,001) to one thousand
21 five hundred dollars (\$1,500), the number of payday loan
22 products in an amount greater than one thousand five hundred
23 dollars (\$1,500) and the percentage of total payday loan
24 products entered into in each of those ranges;

25 (5) an estimate of the total dollar amount of

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1 fees collected for payday loan products;

2 (6) the total number of payday loan products
3 entered into and the total dollar amount of the net charge-offs
4 or write-offs and of the net recoveries of licensees;

5 (7) the minimum, maximum and average dollar
6 amounts of payday loan products entered into in the calendar
7 year ending December 31 of the previous year;

8 (8) the average payday loan product amount,
9 average number of transactions and average aggregate payday
10 loan product amount entered into per consumer each year;

11 (9) the average number of days a consumer is
12 engaged in a payday loan product each year;

13 (10) an estimate of the average total fees
14 paid by a payday loan product consumer;

15 (11) the number of consumers who are eligible
16 for payment plans and the number of consumers who enter into
17 payment plans pursuant to Section 58-15-35 NMSA 1978; and

18 (12) the number of consumers who are subject
19 to the restrictions of the waiting period pursuant to Section
20 [~~8-15-36~~] 58-15-36 NMSA 1978.

21 C. The division shall compile from reports filed by
22 licensees pursuant to Section [~~1 of this 2011 act~~] 58-15-10.1
23 NMSA 1978 an annual report by October 1 of each year
24 containing, at a minimum, data regarding all loans, other than
25 payday loan products or loans or loan products with an annual

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1 interest rate of one hundred seventy-five percent or less as
2 disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z",
3 entered into in the preceding calendar year on an aggregate
4 basis. Annual reports shall be made available to interested
5 parties and the general public and published on the division's
6 web site. Consistent with state law, the report shall include,
7 at a minimum, nonidentifying consumer data from the preceding
8 calendar year, including:

9 (1) a general description of loan products
10 offered by licensees during the preceding calendar year and the
11 minimum, maximum and average annual interest rate for each loan
12 product;

13 (2) the number of loans entered into in the
14 amount of five hundred dollars (\$500) or less, the number of
15 loans entered into in the amount of five hundred one dollars
16 (\$501) to one thousand dollars (\$1,000), the number of loans
17 entered into in the amount of one thousand one dollars (\$1,001)
18 to three thousand dollars (\$3,000), the number of loans entered
19 into in the amount of three thousand one dollars (\$3,001) to
20 five thousand dollars (\$5,000) and the number of loans in an
21 amount greater than five thousand dollars (\$5,000) [~~and the~~
22 ~~number of loans listed by licensee entered into in each of~~
23 ~~those ranges~~];

24 (3) the total number of loans and dollar
25 amount of [~~loans~~] loan origination principal entered into in

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1 the previous calendar year for each loan product;

2 (4) the average loan origination principal
3 [~~loan~~] amount for each loan product;

4 (5) the total number of loans for the loan
5 product for which the loan principal and accrued interest was
6 not paid in full as of December 31;

7 (6) the total dollar amount of loan principal
8 repaid and of interest and fees received for the loan product;

9 (7) the total number of loans secured by
10 collateral of some type and the total number of such loans in
11 which the security was foreclosed upon or repossessed for the
12 loan product;

13 (8) the total amount of loan principal and the
14 total amount of accrued interest written-off or charged-off for
15 the loan product;

16 [~~(9)~~] ~~the percent of customers who were new~~
17 ~~customers~~;

18 [~~(10)~~] (9) the number of loans renewed,
19 refinanced or extended prior to being repaid in full for the
20 loan product; and

21 [~~(11)~~] (10) a general description of
22 procedures followed by licensees to establish consumers'
23 ability to repay loans for the loan product.

24 D. The director shall ensure that information
25 submitted by licensees is kept strictly confidential and shall

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1 not be released or otherwise made available to the public."

2 SECTION 3. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2012.

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